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Of Attorneys for Defendant G4S Secure Solutions (USA) Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

DAVID PITTS,

No. _____

Plaintiff,

NOTICE OF REMOVAL

vs.

G4S SECURE SOLUTIONS (USA) INC.,
a foreign business corporation;
STEWART BECKER, an individual;
PAUL TRAYNOR, an individual; and
FACEBOOK, INC., a foreign business
corporation,

Defendants.

Defendants G4S Secure Solutions (USA) Inc. ("G4S"); Stewart Becker; Paul Traynor; and Facebook Inc. ("Defendants"), by and through counsel, Luke Reese and Garrett Hemann Robertson PC, and consistent with 28 U.S.C. § § 1332, 1441, 1446, notify this Court that they are removing this action, currently pending as Case Number 19CV50563 in the Circuit Court of the State of Oregon for the County of Multnomah, to the United States District Court for the District of Oregon. As grounds for removal, Defendants state as follows:

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NOTICE OF REMOVAL:

Pitts v. G4S Secure Solutions (USA) Inc.

1. On or about December 12, 2019, Plaintiff, David Pitts (“Plaintiff”), filed a lawsuit in the Circuit Court for the State of Oregon, County of Multnomah, styled, *David Pitts v. G4S Secure Solutions (USA) Inc., Stewart Becker, Paul Traynor, and Facebook, Inc.*, Case No. 19CV50563, arising out of Plaintiff’s employment with G4S Secure Solutions (USA) Inc. (“G4S”). See Exhibit 1 - State Court Summons and Complaint.

2. This Notice of Removal is timely under 28 U.S.C. § 1446 in that it was filed within thirty (30) days of December 12, 2019, which is the date of service on the Defendants.

3. Defendants filed this Notice of Removal on January 13, 2020.

4. Removal on the basis of diversity jurisdiction and amount in controversy is appropriate under the provisions of 28 U.S.C. § 1441.

Diversity

5. There is complete diversity between the parties to this lawsuit. “Diversity jurisdiction is based on the status of the parties at the outset of the case.” *Harris v. Bankers Life & Cas. Co.*, 425 F.3d 689, 696 (9th Cir. 2005) (citations omitted).

6. Plaintiff, David Pitts, was a citizen of the State of Texas at the time this action was filed. Defendants have no knowledge that Plaintiff’s citizenship has changed between the time this case was commenced and the time of filing this Notice of Removal.

7. G4S is a corporation organized under the laws of the State of Florida with a principal place of business in Florida. Under 28 U.S.C. § 1332(c)(1), G4S is a citizen of Florida.

8. Facebook, Inc., is a corporation organized under the laws of the State of California with a principal place of business in California. Under 28 U.S.C. § 1332(c)(1), Facebook, Inc., is a citizen of California.

9. Paul Traynor is a citizen of the State of California.

10. Stewart Becker is a citizen of the State of Washington.

11. Thus, there is complete diversity of citizenship because no Defendant holds citizenship in the same state as the Plaintiff. *Glazer & Assocs. v. Teleport, Inc.*, 2001 U.S. Dist. LEXIS 22830 * 4 (D. Or. Sept. 13, 2001).

Amount in Controversy

12. The amount in controversy, exclusive of interests and costs, exceeds \$75,000.00 as required by 28 U.S.C. § 1332(a). Plaintiff seeks damages for each of the following:

- a. Economic damages of approximately \$250,000.00;
- b. Non-economic damages of approximately \$1,500,000.00;
- c. Punitive damages; and
- d. Costs and attorney fees.

13. “When a complaint filed in state court alleges on its face an amount in controversy sufficient to meet the federal jurisdictional threshold, the amount in controversy requirement is presumptively satisfied....” *Guglielmino v. McKee Foods Corp.*, 506 F.3d 696, 699 (9th Cir. 2007).

14. The amount in controversy requirement is satisfied because Plaintiff’s complaint filed in state court affirmatively alleges the amount in controversy is \$1,750,000.00 and far exceeds the jurisdictional threshold. *Id.*, Exhibit 1, Complaint, p. 1.

15. Based on the facts and circumstances set forth above, this constitutes an action which originally could have been brought before this Court under 28 U.S.C. § 1332 and which may be removed by Defendants consistent with 28 U.S.C. § 1441(a).

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16. The United States District Court for the State of Oregon is the proper judicial district for removal, because Multnomah County, Oregon, is where the state court action is currently pending.

17. Venue is proper under 28 U.S.C. § 1441(a) and Local Rule 3-2(b) because this Court is the United States District Court corresponding to the place, Circuit Court of Multnomah County, where the action is pending.

18. This action is not an action described in 28 U.S.C. § 1445.

19. By virtue of this Notice of Removal, Defendants do not waive their right to respond to Plaintiff's Complaint and/or assert any claims, defenses, or other motions.

20. Consistent with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings, and orders served upon Defendants in this action as of the date of filing of this Notice of Removal is attached and will be filed with the clerk of the Circuit Court of the State of Oregon for the County of Multnomah. See Exhibit 1.

WHEREFORE, this action is properly removed from the Circuit Court of Multnomah County, Oregon, to this Court for all further proceedings.

DATED this 13th day of January 2020.

GARRETT HEMANN ROBERTSON P.C.



Luke W. Reese
OSB No. 076129
Phone: 503-581-1501
Fax: 503-581-5891
lreese@ghrlawyers.com
Of Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served the foregoing **Notice of Removal** on the date indicated below,

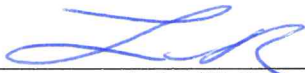
☒ Via First-Class Mail with postage prepaid
☒ Via Electronic Filing
☐ Via Facsimile Transmission
☐ Via Hand Delivery
☐ Via Overnight Delivery

to the following person(s) a true copy thereof, contained in a sealed envelope (if other than by facsimile transmission), addressed to said person(s) at their last known addresses indicated below:

Philip R. Anderson
Philip R. Anderson PC
747 SW Mill View Way
Bend OR 97702
OSB No.
Phone: 541-323-3977
Email: phil@praattorney.com
Attorney for Plaintiff

DATED January 13, 2020.

GARRETT HEMANN ROBERTSON P.C.



Luke W. Reese
OSB No. 076129
lreese@ghrlawyers.com
Phone: 503-581-1501
Fax: 503-581-5891
Of Attorneys for Defendants

Served 12-12-19
3:05 PM

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DAVID PITTS,

Plaintiff,

v.

G4S SECURE SOLUTIONS (USA), Inc., a
foreign business corporation; STEWART
BECKER, an individual; PAUL TRAYNOR,
an individual; and FACEBOOK, INC., a
foreign business corporation,

Defendants.

Case No. 19CV50563

SUMMONS

to: G4S Secure Solutions (USA), Inc.
c/o The Prentice-Hall Corporation System, Inc.
1127 Broadway Street NE, Ste. 310
Salem, Oregon 97301

IN THE NAME OF THE STATE OF OREGON: You are hereby required to appear and defend the complaint filed against you in the above entitled action within 30 days from the date of service of this Summons upon you; and if you fail to appear and defend, for want thereof, plaintiff will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer". The "motion" or "answer" must be given to the court clerk or administrator within thirty 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff. If you have any questions, you should see an attorney immediately.

If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 or toll free in Oregon at (800) 452-7636.

By /s/ Philip R. Anderson
Philip R. Anderson, OSB #952023
Of Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DAVID PITTS,

Plaintiff,

v.

G4S SECURE SOLUTIONS (USA), Inc., a
foreign business corporation; STEWART
BECKER, an individual; PAUL TRAYNOR,
an individual; and FACEBOOK, INC., a
foreign business corporation,

Defendants.

Case No. 19CV50563

COMPLAINT (ORS ch.659A
discrimination, whistleblowing
discrimination, negligence)

Amount in Controversy:
\$1,750,000.00

NOT SUBJECT TO MANDATORY
ARBITRATION

Filing Fee Statute: ORS 21.160(d)

For his Complaint, Plaintiff alleges:

1.

Defendant G4S Secure Solutions (USA), Inc. (hereinafter "G4S") is a foreign business corporation, authorized to do and at material times doing business in the state of Oregon.

2.

Defendant G4S maintains a business office in Multnomah County, Oregon.
Defendant G4S employs approximately 800 employees in Multnomah County, Oregon and conducts regular and sustained business activity in Multnomah County, Oregon.

3.

Defendant Facebook, Inc. (hereinafter "Facebook"), is a foreign business corporation

1 authorized to do and at material times doing business in the state of Oregon, with regular
2 and sustained business activities in Multnomah County, Oregon.

3 4.

4 Defendant Stewart Becker ("Becker") was at all material times a manager in the
5 employ of Defendant G4S acting within the course and scope of his employment with
6 Defendant G4S.

7 5.

8 Defendant Paul Traynor (hereinafter "Traynor") was at all material times a manager in
9 the employ of Defendant G4S acting within the course and scope of his employment with
10 Defendant G4S.

11
12 **FIRST CLAIM (ORS 659A.030(f) – vs. Defendants G4S**

13 6.

14 Paragraphs 1 through 5 are hereby incorporated as though fully set forth herein.

15 7.

16 Defendant G4S employed Plaintiff from on or about June 23, 2017 to July 11, 2018,
17 first as a shift supervisor and then, following a promotion, as site supervisor at Facebook's
18 Data Center.

19 8.

20 During his employment with Defendant G4S, and within the scope of his job duties,
21 Plaintiff reported and/or opposed numerous incidents of actual or alleged unlawful
22 employment practices—including race discrimination, sexual harassment and violation of the
23 Oregon Family Medical Leave Act by--supporting and assisting numerous security officers in
24 their complaints of unlawful employment practices and opposing attempts by Defendant G4S
25 to systematically cleanse the Facebook worksite of qualified Hispanic security officers in
26 favor of white males under the pretext of hiring security officers with military and/or law

1 enforcement backgrounds.

2 9.

3 Defendant G4S terminated Plaintiff's employment and otherwise discriminated against
4 Plaintiff in the terms, conditions or privileges of his employment because of Plaintiff's
5 opposition to unlawful employment practices and/or his assistance with other employees'
6 complaints of unlawful employment practices, and/or his association with Hispanic security
7 officers, in violation of Oregon Revised Statute 659A.030(f).

8 10.

9 As a result of Defendant G4S's violation(s), Plaintiff has suffered and will suffer
10 economic damage in an amount to be proved at trial, including but not limited to damages for
11 loss of employment, lost wages, loss of increased pay, loss of future income, loss of paid
12 time off, and loss of retirement and fringe benefits, in an amount to be proved at trial, which
13 is alleged to be \$250,000.00.

14 11.

15 As a further result of Defendant G4S's violation, Plaintiff has suffered and will suffer
16 from, *inter alia*, anger, frustration, depression humiliations, anxiety, emotional pain, mental
17 anguish, and loss of life, all to his non-economic damage in an amount to be proven at trial,
18 which is alleged to be \$1,500,000.00.

19 12.

20 Defendants' acts were malicious and/or reckless, and Plaintiff reserves the right to
21 allege punitive damages.

22 13.

23 Pursuant to ORS 20.107 and 659A.885, Plaintiff is entitled to an award of reasonable
24 attorney fees, expert witness fees, costs and disbursements incurred herein.

25
26 ///

SECOND CLAIM (ORS 659A.030(a) – vs. Defendants G4S

14.

Paragraphs 1 through 8 and 10 through 13 are hereby incorporated as though fully set forth herein.

15.

Defendant G4S terminated Plaintiff's employment because of his association with Hispanic security officers, in violation of Oregon Revised Statute 659A.030(a).

THIRD CLAIM (ORS 659A.030(b) – vs. Defendants G4S

16.

Paragraphs 1 through 8 and 10 through 13 are hereby incorporated as though fully set forth herein.

17.

Defendant G4S discriminated against Plaintiff in the terms, conditions or privileges of his employment because of his association with Hispanic security officers, in violation of Oregon Revised Statute 659A.030(b).

FOURTH CLAIM (ORS 659A.199) – vs. Defendants G4S

18.

Paragraphs 1 through 8 and 10 through 13 are hereby incorporated as though fully set forth herein.

19.

Defendant G4S discharged and/or otherwise discriminated or retaliated against Plaintiff in the terms, conditions or privileges of his employment because Plaintiff in good faith reported information that Plaintiff believed was evidence of a violation of a state or federal law, rule or regulation, in violation of ORS 659.199(a).

1 **FIFTH CLAIM (ORS 659A.030 (g))– vs. Defendants Becker and Traynor**

2 20.

3 Paragraphs 1 through 19 are hereby incorporated as though fully set forth
4 herein.

5 21.

6 Defendant Stewart Becker (hereinafter “Becker”) aided, abetted, incited, compelled or
7 coerced Defendant G4S’s unlawful practices set forth above.

8 22.

9 Defendant Paul Traynor (hereinafter “Traynor”) aided, abetted, incited, compelled or
10 coerced Defendant G4S’s unlawful practices set forth above.

11
12 **SIXTH CLAIM FOR RELIEF (Negligence)—vs. Facebook**

13 23.

14 Paragraphs 1 through 8 and 10 through 12 are hereby incorporated as though
15 fully set forth herein.

16 24.

17 Plaintiff and others reported the unlawful and discriminatory employment practices set
18 forth herein directly to Defendant Facebook’s management.

19 25.

20 Facebook failed and neglected to correct G4S in its implementation of its unlawful and
21 discriminatory acts and failed and neglected to adequately supervise G4S, thereby allowing
22 G4S to continue its implementation of unlawful and discriminatory employment policies as
23 set forth herein.

24 26.

25 Facebook’s negligence as set forth above created a reasonably foreseeable risk that
26 G4S would discriminate and retaliate against Plaintiff in one or more of the manners set forth

1 herein.

2 27.

3 As a result of Facebook's negligence, Plaintiff suffered the damages set forth in
4 paragraphs 10 and 11, above.

5
6 **SEVENTH CLAIM FOR RELIEF (Breach of Contract)—vs. Defendants G4S and**
7 **Facebook**

8 28.

9 Paragraphs 1 through 8 and 10 through 12 are hereby incorporated as though fully set
10 forth herein.

11 29.

12 Defendants G4S and Facebook were parties to a Security Services Agreement
13 related to G4S's provision of security services at Facebook's Data Center.

14 30.

15 Facebook and G4S intended the Security Services Agreement to benefit third parties,
16 including Plaintiff, in regard to the maintenance of a safe and non-discriminatory workplace.

17 31.

18 The Security Services Agreement required Defendant G4S to maintain a safe and
19 non-discriminatory workplace and to specifically comply with the non-discrimination
20 provisions of Executive Order 11246 and related laws, regulations and policies prohibiting
21 discrimination.

22 32.

23 The Security Services Agreement required Defendant Facebook to cooperate with
24 G4S to evaluate, identify and address risk and exposure related to workplace safety and
25 compliance, including incidents of alleged discrimination.

26 33.

1 Defendants G4S and Facebook breached the Security Services Agreement by failing
 2 to comply with non-discrimination laws, ignoring and failing to address reported concerns of
 3 racial discrimination, failing to carry out their obligations to maintain a safe and non-
 4 discriminatory workplace in good faith, and failing to deal fairly with Plaintiff in regard to his
 5 reports and concerns about racial discrimination in the workplace.

6 34.

7 As a result of Defendants' breaches, Plaintiff suffered the economic damages set forth
 8 in paragraph 10, above.

9 **WHEREFORE**, Plaintiff prays for judgment as follows:

10 **FIRST, SECOND, THIRD AND FOURTH CLAIMS:** against Defendant G4S in the
 11 amount of \$1,750,000; for post-judgment interest at the statutory rate; for Plaintiff's
 12 reasonable attorney fees, witness fees, costs and disbursements; and such further relief as
 13 the court may deem equitable and just.

14 **FIFTH CLAIM:** against Defendants Becker and Traynor, jointly and severally with
 15 Defendant G4S, in the amount of \$1,750,000; for post-judgment interest at the statutory rate;
 16 for Plaintiff's reasonable attorney fees, witness fees, costs and disbursements; and such
 17 further relief as the court may deem equitable and just.

18 **SIXTH CLAIM:** against Defendant Facebook, jointly and severally with Defendants
 19 Becker, Traynor and G4S, in the amount of \$1,750,000; for post-judgment interest at the
 20 statutory rate; for Plaintiff's costs and disbursements; and such further relief as the court may
 21 deem equitable and just.

22 **SEVENTH CLAIM:** against Defendants G4S and Facebook, jointly and severally, in
 23 the amount of \$250,000.00; for post-judgment interest at the statutory rate; for Plaintiff's
 24 costs and disbursements; and such further relief as the court may deem equitable and just.

25 DATED this 25th day of November, 2019.
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PHILIP R. ANDERSON, P.C.
/s/ Philip R. Anderson
Philip R. Anderson, OSB No. 952023
Attorney for Plaintiff

TRIAL ATTORNEY:
Philip R. Anderson, OSB No. 952023